

FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

JAMES E. WILLIAMS,

Plaintiff,

v.

R. MACK,

Defendant.

No. C 13-4820 RMW (PR)

ORDER DIRECTING PLAINTIFF TO
PROVIDE COURT WITH MORE
INFORMATION FOR DEFENDANT
R. MACK

Plaintiff, a state prisoner proceeding pro se, filed a civil rights complaint pursuant to 42 U.S.C. § 1983. The court ordered service of plaintiff's civil rights complaint upon defendants. (Docket No. 6.) On February 19, 2014, a notice of lawsuit and request for waiver of service of summons was mailed to the defendant at Salinas Valley State Prison. On March 3, 2014, the documents were returned with a notation that the defendant was no longer at the institution. (Docket No. 9.) Accordingly, defendant R. Mack has not been served.

Although a plaintiff who is incarcerated and proceeding in forma pauperis may rely on service by the Marshal, such plaintiff "may not remain silent and do nothing to effectuate such service"; rather, "[a]t a minimum, a plaintiff should request service upon the appropriate defendant and attempt to remedy any apparent defects of which [he] has knowledge." Rochon v. Dawson, 828 F.2d 1107, 1110 (5th Cir. 1987). Here, plaintiff's complaint has been pending for

1 over 120 days, and thus, absent a showing of “good cause,” is subject to dismissal without
2 prejudice. See Fed. R. Civ. P. 4(m).

3 Because plaintiff has not provided sufficient information to allow the Marshal to locate
4 and serve defendant R. Mack, plaintiff must remedy the situation or face dismissal of his claims
5 against this defendant without prejudice. See Walker v. Sumner, 14 F.3d 1415, 1421-22 (9th
6 Cir. 1994) (holding prisoner failed to show cause why prison official should not be dismissed
7 under Rule 4(m) where prisoner failed to show he had provided Marshal with sufficient
8 information to effectuate service). Accordingly, plaintiff must provide the court with an accurate
9 and current location for defendant R. Mack such that the Marshal is able to effect service.

10 If plaintiff fails to provide the court with an accurate and current location for this
11 defendant within **thirty (30) days** of the date this order is filed, plaintiff’s claims against this
12 defendant will be dismissed without prejudice pursuant to Rule 4(m) of the Federal Rules of
13 Civil Procedure.

14 IT IS SO ORDERED.

15 DATED: 1 DEC 1


RONALD M. WHYTE
United States District Judge

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

JAMES E. WILLIAMS et al,
Plaintiff,

Case Number: CV13-04820 RMW

CERTIFICATE OF SERVICE

v.

MACK ET AL et al,
Defendant.

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on June 2, 2014, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

James E. Williams V-54214
D-5-103
Kern Valley State Prison
PO Box 5104
Delano, CA 93216

Dated: June 2, 2014

Richard W. Wieking, Clerk
By: Jackie Lynn Garcia, Deputy Clerk